

REMARKS

Claims 18-28, 31, 32, 34, 35 and 38 remain pending in the application and are presented for examination. Applicants have amended certain claims as indicated above and discussed below.

Response to Claim Rejections Under 35 U.S.C. 103(a):

Claims 18-28, 34 and 38

The Examiner has rejected the above listed claims under 37 U.S.C. 103(a) as unpatentable over Menditto (6,981,029) in view of Greenley (5,761,469).

Independent claim 18 has been amended as set forth above to more clearly claim the subject matter the Applicants regard as the invention. In particular, references have been added to a private branch exchange, an input device, configuration of the second computer and independent operation of the first and second computers.

Menditto relates to processing a request for information in a network. In particular, the Menditto system locates an appropriate server to fulfill the information request using only the contents of the request. A router forwards the information request to one of a plurality of processors according to the domain name associated with the request. The selected processor then identifies an information source to fulfill the request according to the contents of the request.

Greenley relates to pipelined computer processors and in particular a method and apparatus for performing signed and unsigned load operations to memory.

Admittedly there are some technical similarities between the Applicants' invention and the Menditto reference as expected in technical discussions of networks and the communication of data between network elements. However, the Examiner's suggestion that the combination of Menditto and Greenley discloses all elements of the Applicants' invention as presented in independent claim 18 overlooks several elements in the claim and is not convincing regarding the claim elements that the references purport to disclose.

Although the Examiner has specifically cited to four paragraphs in the Menditto and Greenley references, his citation to the entire Menditto reference and to the entire Greenley reference (that is, Menditto column 1, line 5 – column 17, line 45 and Greenley

column 1, line 5 – column 7, line 50) is perplexing. Only in a few places in the office communication has the Examiner cited specific language in either of the two cited references. The motivation and the intent of the Examiner's citation to the entire Menditto and Greenley references is not understood.

The Examiner suggests that Menditto discloses the Applicants' first computer and its three claimed elements. Applicants agree that a computer, such as Menditto's content server, may include a storage unit and a processor, but Menditto does not disclose a signaling unit having the characteristics as claimed. The Examiner suggests that the signaling unit is simply a network interface, but reference to the Applicants application reveals that the Applicants signaling unit "enables the use of additional features of the data transfer service." See lines 13, 31 and 32 on page 1. It is not clear and the Examiner has not referred to any Menditto text that supports his conclusion that disclosure of a network interface, of which there are many varieties, discloses the Applicants claim to a signaling unit. As is well known in the art, a signaling unit, by sending certain signals, can perform supervising, alerting and addressing functions with and to other network elements. These functions are clearly beyond the simple "network interface" referred to by Examiner Duong.

In the current amendment the Applicants now claim that the "data transfer service interface[es] with a private branch exchange." Support for this amendment can be found at line 35 of page 5. Neither Menditto nor Greenley disclose a private branch exchange. Feyaerts does mention a private branch exchange, but it is not clear how the Menditto disclosure can be made to accommodate a private branch exchange as Menditto's IP protocol content gateways and content providers are not obviously nor easily combined with a telephone-based private branch exchange. Combining Feyaerts with Greenley is even more specious as Greenley relates to pipelined processors and has no obvious connection to a private branch exchange. The Examiner's conclusory statement as to the combinability of Menditto/Greenley/Feyaerts in his rejection of dependent claim 33 is nothing more than a conclusion lacking any serious rational underpinnings.

In analyzing the elements of the Applicants' second computer, Examiner Duong refers to Menditto's content gateway router 28 as the Applicant's data processing unit (one element of the Applicants' second computer), then later refers to Menditto's content

gateway router 28 as the Applicant's transmitting/receiving unit (another element of the Applicants' second computer). This is not correct as one element in the prior art cannot disclose two separate and distinct items in an applicant's claimed invention.

Notwithstanding the issues raised above as set forth in the final rejection, the Applicants have amended the claim language relative to the second computer by claiming the, "second computer configured according to information entered into the input device of the first computer." This limitation is not found in the cited references.

The Applicants now claim that "wherein with the signaling unit and the data processing unit in respective first and second computers, the second computer is operated substantially independently of the first computer." Support for this change can be found beginning at page 3, line 16. The Applicants also now claim, "wherein the second computer is disposed between the first computer and a hub of the data transmission network, and wherein in an overload situation, data sent to or received by the second computer have a priority over data sent to or received by the first computer." Support for this change can be found at page 6, lines 25-27.

In addition to the deficiencies of the references as set forth above, there is no disclosure in either Menditto or Greenley of the claim 18 element related to the quality indication of the voice data and the video data, as determined by the second computer and independent of the variable processing load of the first processor.

The combinability of Menditto and Greenley is suspect. Examiner Duong admits that Menditto does not explicitly disclose the Applicants' first computer and its feature of processing one or more application programs and therefore subjecting its first processor to a variable processing load. Examiner Duong therefore cites to Greenley that discloses "a method of scheduling a processor's pipeline to optimize load instruction processing in a variable number of cycles." It appears that Examiner Duong has confused the Greenely reference to instruction processing with the Applicant's reference to application programs that subject a processor to a variable processing load. While admittedly application programs comprise individual instructions, scheduling the execution of instructions in a variable number of cycles, as disclosed by Greenley, does not disclose a variable processing load. Whether the processor load is variable when the instructions are executed in a variable number of cycles depends directly on many factors related to the

internal functionality of the processor, including the manner in which the processor executes the instructions, the number of instructions in the application program, the processor execution speed, etc. Just because the instructions are executed in a variable number of cycles, does not allow one to definitively conclude that the application program processing load is variable.

In conclusion, the Applicants have amended claim 18 to further distinguish the cited art and in expectation that the Examiner may find more pertinent references than those cited to date, recognizing that the current references are inadequate and fail to disclose the elements of claim 18.

Dependent claims 19-28 and 34 depend directly or indirectly from claim 18. The Applicants respectfully submit that these claims each include one or more elements that further distinguish the invention over the art of record. The allowance of these claims is therefore respectfully requested. Certain of these dependent claims have been amended to correct typographical informalities.

Method independent claim 38 has been amended in a manner similar to the amendments to apparatus claim 18. Method claim 38 now claims that the second computer is configured according to information entered into the first computer. Also the location of the second computer between the first computer and a hub of the data transmission network is now claimed.

As described above, the combination of Menditto and Greenley does not disclose the elements of amended claim 38. In particular, the combination does not disclose at least: the second computer is configured by information entered into the first computer, the reference to the quality indication, the location of the second computer relative to the first computer and the hub, and data priority in the event of an overload situation. Thus the remarks offered for claim 18 apply to claim 38 and claim 38 is considered allowable over the cited references.

Claims 31 and 32

The Examiner has rejected the above listed claims under 37 U.S.C. 103(a) as unpatentable over Menditto in view of Greenley and further in view of Maes (6,934,756).

Dependent claims 31 and 32 depend from claim 18. The Applicants respectfully submit that these claims each include one or more elements that further distinguish the invention over the art of record. The allowance of these claims is therefore respectfully requested.

Claim 33

The Examiner has rejected claim 33 under 37 U.S.C. 103(a) as unpatentable over Menditto in view of Greenley and further in view of Feyaerts (6,771,636).

Dependent claim 33 has been cancelled without prejudice.

Claim 35

The Examiner has rejected the claim 35 under 37 U.S.C. 103(a) as unpatentable over Menditto in view of Greenley and further in view of Kohzuki (6,912,252).

Dependent claim 35 depend from claim 18. The Applicants respectfully submit that claim 35 includes one or more elements that further distinguish the invention over the art of record. The allowance of the claim is therefore respectfully requested.

Serial No. 10/526,270
Atty. Doc. No. 2002P10497WOUS

Conclusion:

It is respectfully submitted that each of the claims pending in this application recite patentable subject matter, and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: Sept. 29, 2008

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